

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 870

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 870, entitled "A Bill for an Act Relating to the Designation of a Hawaii Archaeological Data Survey."

The purpose of this bill is to establish as an online database a Hawaii archaeological data survey consisting of archaeological documents and materials including reports, maps, and artifacts beginning with the collections of the Bishop Museum and including records of the State Historic Preservation Division.

First, this bill is objectionable because the broad online public availability of records concerning the location of archaeological artifacts could put these artifacts in jeopardy. The test in the bill for withholding such information, Section 92F-13(3), Hawaii Revised Statutes, applies to records maintained by State and county agencies. Because Bishop Museum is a private, nonprofit organization, not a State agency, this section of the statutes would not be applicable. ;

Second, this bill may result in a constitutional

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violation. Although the Bernice Pauahi Bishop Museum has been designated as the "State Museum of Natural and Cultural History," the designation did not make the Bishop Museum a government agency. Because the Bishop Museum remains a private, nonprofit organization, this bill's mandate to make available the Bishop Museum's collection of archaeological material without compensation may result in an unconstitutional taking of property without just compensation.

Finally, there is concern that disclosure of items on federal lands, Department of Hawaiian Home Lands, and lands utilizing federal funds violates the Archaeological Resources Protection Act of 1979. Failure to secure and protect information on cultural and archaeological sites exposes the State and county agencies to federal funding sanctions. Additionally, the bill fails to recognize the homeland security restrictions that apply to sites on military installations.

For the foregoing reasons, I am returning Senate Bill No. 870 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii